

HONORABLE JAMES L. ROBART

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION,

Plaintiff,

v.

MOTOROLA, INC., et al.,

Defendants.

No. C10-1823-JLR

MICROSOFT'S MOTION TO FILE
DOCUMENTS UNDER SEAL

NOTED FOR:
Friday, October 14, 2011

MOTOROLA MOBILITY, INC., et al.,

Plaintiffs,

v.

MICROSOFT CORPORATION,

Defendant.

I. RELIEF REQUESTED

Microsoft Corporation moves for leave to file certain portions of its Reply in Support of its Motion for Partial Summary Judgment (the "Reply Brief") under seal pursuant to Local Civil Rule 5(g) and paragraphs 2(a) and 8 of the Protective Order entered in this case.

II. FACTS & AUTHORITY

Microsoft's Reply Brief refers to certain information and documents designated by Motorola as Confidential Business Information and filed by Motorola under seal with its Opposition to Microsoft's Motion for Partial Summary Judgment. Under the terms of the MICROSOFT'S MOTION TO FILE DOCUMENTS UNDER SEAL - 1

1 Protective Order entered on July 21, 2011(ECF No. 72), Microsoft is required to file its Reply
2 Brief under seal in order to maintain the confidentiality of material that Motorola has identified
3 as Confidential Business Information.

4 Paragraphs 2(a) and 8 of the Protective Order govern the filing of documents under
5 seal. Paragraph 2(a) provides:

6 Any information submitted in pre-trial discovery or in a pleading, motion, or
7 response to a motion in this action...and which is asserted by a supplier to
8 contain or constitute Confidential Business Information shall be so designated
9 by such supplier in writing...and shall be segregated from other information
10 being submitted. Documents shall be clearly and prominently marked on their
11 face with the legend: “[SUPPLIER’S NAME] CONFIDENTIAL BUSINESS
12 INFORMATION, SUBJECT TO PROTECTIVE ORDER” or a comparable
notice. During the pre-trial phase of this action, such information, whether
submitted in writing or in oral testimony, shall be disclosed only *in camera*
before the Court and shall be filed only under seal, pursuant to Rule 5(g) of the
Local Civil Rules of the United States District Court for the Western District of
Washington.

13 Paragraph 8 likewise provides that:

14 Any Confidential Business Information submitted to the Court in connection
15 with a motion or other proceeding within the purview of this action shall be
submitted under seal pursuant to paragraph 2 above.

16 *Id.*, at ¶ 8.

17 Under these provisions of the Protective Order, Microsoft is required to file certain
18 limited portions of its Reply Brief under seal because those portions refer to information that
19 Motorola has designated as Confidential Business Information under the Protective Order. For
20 purposes of this Motion, Microsoft is not opposing Motorola's relevant confidentiality
21 designations. However, nothing in this Motion is intended as a waiver of Microsoft's right to
22 contest these or any other of Motorola's designations of material to be protected under the
23 terms of the Protective Order. Microsoft expressly reserves the right to do so as the
24 circumstances warrant.
25

1 Microsoft is filing a public version of its Reply Brief in which references to material
2 designated by Motorola as Confidential Business Information have been redacted.

3 **III. CONCLUSION**

4 For the foregoing reasons, Microsoft respectfully requests that this Court permit
5 Microsoft to file its Reply Brief under seal, with a redacted copy being filed in the public
6 record. A [Proposed] Order Granting Microsoft's Motion to File Documents Under Seal has
7 been submitted herewith.

8 DATED this 30th day of September, 2011.

9 DANIELSON HARRIGAN LEYH & TOLLEFSON LLP

10 By /s/ Arthur W. Harrigan, Jr.

11 Arthur W. Harrigan, Jr., WSBA #1751

12 Christopher Wion, WSBA #33207

13 Shane P. Cramer, WSBA #35099

14 T. Andrew Culbert, WSBA #35925

15 David E. Killough, WSBA #40185

16 MICROSOFT CORPORATION

17 1 Microsoft Way

18 Redmond, WA 98052

19 Phone: 425-882-8080; Fax: 425-869-1327

20 David T. Pritikin, *Pro Hac Vice*

21 Richard A. Cederroth, *Pro Hac Vice*

22 Douglas I. Lewis, *Pro Hac Vice*

23 John W. McBride, *Pro Hac Vice*

24 SIDLEY AUSTIN LLP

25 One South Dearborn

Chicago, IL 60603

Phone: 312-853-7000; Fax: 312-853-7036

Brian R. Nester, *Pro Hac Vice*

Kevin C. Wheeler, *Pro Hac Vice*

SIDLEY AUSTIN LLP

1501 K Street NW

Washington, DC 20005

Telephone: 202-736-8000; Fax: 202-736-8711

Counsel for Microsoft Corporation

CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2011, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Attorneys for Defendants Motorola Solutions, Inc., Motorola Mobility, Inc., and General Instrument Corporation

Philip S. McCune
Lynn M. Engle
Summit Law Group

Steven Pepe
Jesse J. Jenner
Norman Beamer
Paul M. Schoenhard
Ropes & Gray

/s/ Susie Clifford